IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4101 OF 2006

Zahir Mohammad Shaikh .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Dilip Bodke for Applicant
Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 30th November 2006.

P.C.

. Heard Mr.Bodke for applicant and Mr.Pol, A.P.P. for State. Perused the application and the annexures thereto. The order passed in the case of co-accused is mainly relied upon by Mr.Bodke and he claims bail on the ground on parity.

2. Further, Mr.Bodke states that the applicant has been complaining of an ailment

where he has celebral disorder. He was given treatment initially at Sasoon hospital and, thereafter, at J.J. Hospital at Mumbai but there is no improvement. Accused requires continuous follow up and treatment and, therefore, he should be shifted from Satara to J.J. Hospital.

3. As far as first plea of Mr.Bodke is concerned, in my view, the learned trial Judge was right in denying bail to the applicant. On merits, prima facie case of the prosecution as far as this applicant is concerned, is specific. He assaulted the deceased with a stone whereas the co-accused have been allegedly holding him. In such circumstances and when there is recovery so also offences being grave and serious, even if the investigations are complete and charge sheet is laid, I do not think that the applicant deserves to be enlarged on bail. There is clear distinction insofar as role attributed to the co-accused and the present applicant.

4. As far as the plea that the applicant requires medical treatment is concerned, I had directed learned A.P.P. to take instructions and the learned A.P.P. has produced case papers of the applicant. The applicant was given extensive treatment at Pune as well as Mumbai. The ailment according to case papers does not require hospitalisation for a prolonged period. Be that as it may, in my view, in case the applicant has any grievance about his ailment, it would be open for him to apply to the trial court and the trial court shall consider his request in accordance with law, without being influenced by any observations made by it earlier or by this Court. Application dismissed.

(S.C.Dharmadhikari, J)